

APPEAL NO. 040818
FILED JUNE 2, 2004

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on February 24, 2004. The hearing officer decided that the appellant (claimant) did not sustain a compensable injury on _____, and did not have disability. The claimant appeals these determinations on sufficiency of the evidence grounds. No response was filed, by the respondent (carrier).

DECISION

The decision and order of the hearing officer have become final pursuant to Section 410.169.

A written request for appeal must be filed within 15 days of the date of receipt of the hearing officer's decision, excluding Saturdays, Sundays, and holidays listed in Section 662.003 of the Texas Government Code. Section 410.202(a) and (d). Pursuant to Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 102.5(d) (Rule 102.5(d)), the hearing officer's decision is deemed to have been received by the claimant five days after the date the decision was mailed by the Texas Workers' Compensation Commission (Commission). The Appeals Panel has held that when Commission records show mailing to the claimant on a particular day at the correct address, the mere assertion that the decision was received after the deemed date of receipt is not sufficient to extend the date of receipt past the deemed date of receipt provided by Commission rule. Texas Workers' Compensation Commission Appeal No. 022550, decided November 14, 2002. Commission records indicate that the hearing officer's decision was mailed to the claimant on March 10, 2004. The claimant was deemed to have received the decision on March 15, 2004. The last date for the claimant to timely file an appeal was April 5, 2004. The claimant's appeal was postmarked on April 8, 2004. Therefore, the appeal is untimely.

The appeal being untimely, the jurisdiction of the Appeals Panel was not properly invoked and the decision and order of the hearing officer has become final pursuant to Section 410.169.

The true corporate name of the insurance carrier is **AMERICAN HOME ASSURANCE COMPANY** and the name and address of its registered agent for service of process is

**CORPORATION SERVICE COMPANY
800 BRAZOS, SUITE 750, COMMODORE 1
AUSTIN, TEXAS 78701.**

Edward Vilano
Appeals Judge

CONCUR:

Elaine M. Chaney
Appeals Judge

Veronica L. Ruberto
Appeals Judge